THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO:21227 OF 2004

DATED:09.08.2005

Between:

Abdul Khuddus Ail, S/o. late Sheik Mahboob Ali,

Aged about 54 years, R/o. LIG B-4, F-7, APHB Colony,

M.J. Road, Hyderabad.

……PETITIONER

AND

The Chief Manager, Syndicate Bank, Central Accounts

Office, N.S. Road, Hyderabad and another.

……RESPONDENTS

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO.21227 OF 2004

ORDER

This Writ Petition is filed by the petitioner seeking a writ of Mandamus declaring the letter, dated 29.3.2003 of the first respondent and consequential letter, dated 19.4.2003 directing the petitioner to pay a sum of Rs.40,000/-, which was drawn by way of advance towards Leave Travel Concession ('LTC'), as illegal, arbitrary and violation of the service regulations of the respondent-Bank and consequently sought for a direction to the respondents to pay a sum of Rs.41,212/-, to which the petitioner is entitled towards LTC.

According to the petitioner, he was appointed as Scale-I Officer in respondent-Bank in the year 1973. He was later promoted to Scale-II Officer in the year 1993 and further promoted to Scale-III Officer. It is stated that the petitioner served the respondent-Bank for a period of 30 years and retired from service on 24.3.2003. It is stated that as per the regulations of the Bank, the petitioner is entitled for LTC once in two years alternatively once for hometown and next to anywhere in India. The case of the petitioner is that prior to 1979 the block period for availing LTC facility was two years, but however, the said block period was made four years as per the amended service regulations of 1979. It is also stated that the LTC facility would be counted from the date of joining the service. In the process, according to the petitioner, he availed the LTC facility during the block period of 2002-2004 only once to go to Ajmer and as the petitioner retired by March, 2003, he was not entitled for the second LTC falling in that block. It is his further case that he has drawn an advance of Rs.40,000/- before availing the LTC facility and as he had incurred a total amount of Rs.41,212/-, he submitted the bills for payment. After settling the

account and final bill, the respondent authorities issued the impugned letter stating that the petitioner is not entitled for availing the LTC facility in this block to travel other than home town. Therefore, the petitioner was asked to make arrangement to repay the sundry advance of Rs.40,000/- immediately. Aggrieved by that, the petitioner has come up with the present Writ Petition.

In fact, it is stated by the learned counsel for the petitioner that an amount of Rs.40,000/- was already withheld by the respondent-Bank from out of the terminal benefits, to which, the petitioner is entitled to. The contention of the learned counsel for the petitioner is that for the block periods in terms of the new regulations of 1979 starts from 1978 and the petitioner did not avail the LTC facility, which was available during the period of 1978-1979 and in the said process, the first block as per the new regulations of 1979, was 1978 to 1982 and thereon, it proceeded and if it is so counted, the last block periods for which the petitioner entitled to are 1998 to 2002 and 2002 to 2006. In the block period of 2002 to 2006, the petitioner is entitled only to avail one LTC as he retired in 2003 and for that one LTC, the petitioner availed to other than hometown i.e. to go to Ajmer. Therefore, there is no justification for the respondent authorities to hold that the petitioner is not entitled to avail the LTC facility other than hometown for this block period.

A counter-affidavit is filed on behalf of the respondent-Bank disputing and denying the allegations of the petitioner. According to the respondent-Bank, the four years block period as per 1979 regulations starts from 1980 to 1984 and if it so counted, the last block period to which the petitioner is entitled relates to 2000 to 2004 and not 2002 to 2006 as claimed by the petitioner. As the petitioner has already availed other than hometown LTC for the period 2000-2002 he is not entitled to another LTC other than home town. Therefore, the petitioner is liable to reimburse the advance already drawn by him. Hence sought to dismiss the Writ Petition.

The learned counsel for the petitioner, however, reiterated the averments made in the affidavit and contended that what was claimed by the petitioner is correct and not what was claimed by the respondent-Bank. In fact, the petitioner was also relied upon the reference made in the service register of the petitioner, where an endorsement has been made at page 4 as to the LTC availed and the block period shown therein is 1998 to 2002, which is not inconformity with what is claimed by the respondent-Bank. On the other hand, the said block period is in conformity with the claim of the petitioner.

At the time of hearing, the learned counsel for the petitioner referred to the Last Pay Certificate issued by the respondent-Bank itself when the petitioner was transferred, which is compiled at page 20 of the material papers. It shows that the block period for LTC is 1998 to 2002 and the petitioner availed for domicile during the period 1998 to 2000. In view of the same, the learned counsel for the petitioner sought to contend that there is no merit in the claim of the respondents that the block period is 2000 to 2004 and not 2002 to 2006.

The learned Standing Counsel for the respondent-Bank, however, reiterated the averments and in fact, the learned counsel was directed to place the regulations with reference to the block periods and though the matter had undergone number of adjournments, he did not place any further material to show that the block period was as claimed by the respondent-Bank and not as claimed by the petitioner. Therefore, the matter was heard and decided basing on the material already placed before this Court.

From the above rival contentions, the issue to be considered is only whether the block period to which the petitioner is entitled to avail LTC facility is 2000 to 2004 or 2002 to 2006. The claim of the petitioner is that the four years block period started as per the new regulations of 1979 from 20th August, 1978 to 19th August 1982 and if the block periods are computed as per the claim, the last two block periods are during the period 1998 to 2002 and 2002 to 2006. The claim of the petitioner, in fact, is in conformity with the entries made by the authorities in the service register and also the entries made in the Last Pay Certificate. In the absence of any other contrary material, there is no justification for the respondent-Bank to take a different view. As the last block period to which the petitioner is entitled for LTC facility is during the period 2002 to 2006, and as the petitioner retired in the year 2003, he is entitled only for one time in the said block period and he can avail either to hometown or to any other place other than hometown. In this case, the petitioner availed the said LTC facility to go to Ajmer. Therefore, the petitioner is perfectly justified in availing the LTC facility to a place other than hometown.

Under the above circumstances, the impugned letter, dated 29.3.2003 is not in accordance with the regulations as well as the material on record. Therefore, the said letter is set aside and the respondent-Bank is directed to pay the amount due and payable to the petitioner towards LTC even with reference to the amounts,

which are withheld from out of the terminal benefits, to which, the petitioner is entitled. The respondent-Bank is directed to pay the said amount within a period of two weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed. No costs.

S. ANANDA REDDY,J

09TH AUGUST 2005

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